

Amendments to the Drawings

One sheet of amended drawings is attached.

REMARKS

In the first part of the Detailed Action, the Examiner indicated that an Information Disclosure Statement (IDS) had not been filed in the Application. Applicants' attorney notes with appreciation the Examiner's acknowledgement in a telephone conversation of October 13, 2003, that an IDS and Form PTO-1449 had been timely filed, and that entry of those papers had apparently been delayed. Pending further communication from the Examiner, Applicants' attorney has no reason to submit a duplicate IDS and Form PTO-1449 or copies of the references cited therein.

The Examiner noted a number of informalities in the specification and inconsistencies between the specification and drawings. These inconsistencies and informalities, and others identified by a review of the Application, are corrected by the amendment of the specification and claims submitted herewith. One sheet of corrected drawings is also submitted herewith.

Applicant notes with appreciation the Examiner's conclusion that Claims 25 and 40-43 contain allowable subject matter. As recommended by the Examiner, these claims have been rewritten in independent form to include the features of the base claims and all intervening claims. Claims 1, 2 and 43-45 also have been rewritten to put them in better form for allowance. In particular, Claims 43-45 have been rewritten as independent claims incorporating the features of the respective base claims and intervening claims. The other claims in the Application have been amended to correct informalities. No new matter has been added by these amendments.

Turning now to the Claim Rejections, the Examiner has rejected Claims 1-11, 17-24, 26-33, 39 and 43-45 under 35 U.S.C. § 102(b) as being anticipated by

European Patent Application EP 0 562 864 to Rosenthal et al. ("the Rosenthal et al. '864 Application"). Applicant respectfully submits that there is a basic difference between the biocompatible means claimed in the present Application and the bioabsorbable sponge disclosed in the Rosenthal et al. '864 Application. More particularly, independent Claims 1 and 2 recite the presence of a biocompatible enclosing means. An example of such an enclosing means that is disclosed in the present Application is an envelope, peripherally sealed at an edge, that can enclose a biodegradable carrier having a bio-active agent attached thereto (Page 1, lines 8-13 and 18-23). No such enclosing structure is disclosed in the Rosenthal et al. '864 Application. Rather, the Rosenthal et al. '864 Application teaches a porous bioabsorbable implant having a "homogenous structure sufficiently interrupted by the substructures to facilitate cellular movement" (Col. 5, lines 17-20). A multiplicity of fragmented substructures are oriented within the homogenous structure to provide paths for the cells to follow (see, e.g., Col 4, lines 10-16 and Col. 5, lines 4-17). The enclosing structure of the present Application neither is formed from a multiplicity of fragmented substructures, nor is oriented with the purpose of guiding the ingrowth of cells into the biocompatible means. Therefore, Applicant respectfully maintains that Claims 1 are distinguishable over the prior art.

In the foregoing circumstances, Applicant's attorney respectfully submits that the claims of the present Application distinguish over the Rosenthal et al. '864 Application and requests that the Examiner withdraw the rejection made under 35 U.S.C. § 102(b). Moreover, Applicant's attorney respectfully submits that the claims depending from Claims 1 and 2 that were rejected under § 103(a) are also in condition

for allowance, specifically, Claims 12-16 and 34-38 which were also rejected over the Rosenthal et al. '864 Application.

For the reasons stated above, Applicant believes that the present Application is now in condition for allowance and respectfully urges the allowance of the claims presented with the entry of this Amendment. If the Examiner believes that there are additional issues to be addressed that may be resolved through a telephone interview, he is respectfully requested to contact Applicant's attorney at the telephone number provided below.

This Amendment is accompanied by a Petition extending the time for response to and including November 15, 2003. It is believed that a fee of \$110.00 due with the Petition and that a fee of \$408 is due for the submission of six extra independent claims beyond the three independent claims for which a fee previously had been paid. The Examiner is hereby authorized to charge these fees to Deposit Account No. 501402. If any additional fees are due, including extension and petition fees, the Examiner is hereby authorized to charge such fees to Deposit Account No. 501402.

Respectfully Submitted,



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